

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-215296.2

DATE: July 23, 1984

MATTER OF: Ramset Fastening Systems, Olin Corporation--
Request for Reconsideration

DIGEST:

Decision dismissing original protest of alleged specification defects as untimely because the protest was not filed prior to the closing date for receipt of proposals is affirmed. Although protester contends that it filed its protest with the agency prior to the scheduled closing date, it did not protest to GAO within 10 working days after closing occurred, as required by GAO Bid Protest Procedures.

Ramset Fastening Systems, Olin Corporation requests that we reconsider our decision Ramset Fastening Systems, Olin Corporation, B-215296, June 11, 1984, 84-1 CPD ¶ _____, in which we found untimely Ramset's protest concerning allegedly restrictive specifications in request for proposals No. MPN-MSG1855-E-N2, a solicitation for powder actuated tools issued by the Office of Federal Supply & Services, General Services Administration. We affirm our decision.

In our decision, we found Ramset's protest to be untimely because Ramset complained of alleged deficiencies in the specifications but did not file its protest with our Office until after the April 14, 1984 closing date for receipt of proposals¹, contrary to our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1984). In requesting reconsideration, Ramset maintains that its objections to the specification contained in the solicitation were initiated prior to March 26 1984,

¹At one point in its request for reconsideration, Ramset seems to confuse the date set for receipt of proposals with the date it was informed that its proposal was rejected.

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with the contracting officer. Ramset also states that on two subsequent occasions it supplied additional information about its tools to the contracting officer but "heard nothing further" until it received a letter from the agency dated May 10, informing Ramset that its offer had been rejected.

Assuming that Ramset's communication to the agency of its objections to the specifications indeed constituted a timely protest to the agency, its subsequent protest to this Office was not timely filed. Our procedures require that where a protest is filed initially with a contracting activity, a subsequent protest to this Office must be filed within 10 working days after the protester has actual or constructive notice of initial adverse agency action. The fact that the agency proceeded with the receipt of proposals as scheduled is constructive notice that the contracting agency rejects the protest. Bernard Franklin Company, B-207126, May 3, 1982, 82-1 CPD ¶ 414; Bird-Johnson Company--Request for Reconsideration, B-199445.3, Oct. 14, 1980, 80-2 CPD ¶ 275. Since Ramset's May 14 protest to our Office was not filed within 10 working days after the April 14 closing date, the protest is untimely. Central Air Service, Inc., B-213205, Feb. 6, 1984, 84-1 CPD ¶ 147.

Ramset has requested a conference in connection with its request for reconsideration. We believe, however, that a conference should be granted in connection with a request for reconsideration only where the matter cannot be resolved without one. In this case, a conference would serve no useful purpose. Small Business Administration--Aunyx Manufacturing Corporation--Reconsideration, B-208002.3, Dec. 7, 1982, 82-2 CPD ¶ 510.

The decision is affirmed.

for Milton J. Fowler
Comptroller General
of the United States